



DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

**[SATS No. OK-035-FOR; Docket ID: OSM-2013-0004;
S1D1SSS08011000SX066A00067F134S180110;
S2D2SSS08011000SX066A00033F13XS501520]**

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Oklahoma proposes revisions to its regulations regarding: definitions; review of permit applications; general provisions for review of permit application information and entry of information into AVS; review of applicant, operator, and ownership and control information; review of permit history; review of compliance history; permit eligibility determination; unanticipated events or conditions at remining sites; eligibility for provisionally issued permits; written findings for permit application approval; performance bond submittal; initial review and finding requirements for improvidently issued permits; notice requirements for improvidently issued permits; suspension or rescission requirements for improvidently issued permits; who may

challenge ownership or control listings and findings; how to challenge an owner and controller listing or finding; burden of proof for ownership or control challenges; written agency decision on challenges to ownership or control listings or findings; post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information; post-permit issuance information requirements for permittees; transfer, assignment, or sale of permit rights; certifying and updating existing permit application information; providing applicant and operator information; providing permit history information; providing property interest information; providing violation information; facilities or structures used in common; hydrologic balance - siltation structures; cessation orders; alternative enforcement - general provisions; criminal penalties; and civil actions for relief. Oklahoma intends to revise its program to be no less effective than the Federal regulations and to improve operational efficiency.

This document gives the times and locations that the Oklahoma program and this proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., c.d.t.,

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL

REGISTER]. If requested, we will hold a public hearing on the amendment on

[INSERT DATE 25 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL

REGISTER]. We will accept requests to speak at a hearing until 4:00 p.m., c.d.t. on

[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by SATS No. OK-035-FOR, by any of the following methods:

- Mail/Hand Delivery: Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128-4629
- Fax: (918) 581-6419
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Oklahoma program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM’s Tulsa Field Office or the full text

of the program amendment is available for you to read at www.regulations.gov.

Acting Director

Tulsa Field Office

Office of Surface Mining Reclamation and Enforcement

1645 South 101st East Avenue, Suite 145

Tulsa, Oklahoma 74128-4629

Telephone: (918) 581-6430

In addition, you may review a copy of the amendment during regular business hours at the following location:

Oklahoma Department of Mines

2915 N. Classen Blvd., Suite 213

Oklahoma City, Oklahoma 73106-5406

Telephone: (405) 427-3859

FOR FURTHER INFORMATION CONTACT: Paul Ehret, Acting Director, Tulsa Field Office. Telephone: (918) 581-6430.

SUPPLEMENTARY INFORMATION:

- I. Background on the Oklahoma Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the Oklahoma Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, “. . . State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . . ; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program in the January 19, 1981, Federal Register (46 FR 4902). You can also find later actions concerning the Oklahoma program and program amendments at 30 CFR 936.10, 936.15, and 936.16.

II. Description of the Proposed Amendment

By letter dated June 19, 2013 (Administrative Record No. OK-1002), Oklahoma sent us an amendment to its program under SMCRA (30 U.S.C. 1201 et seq.). Oklahoma submitted the proposed amendment in response to a September 30, 2009, letter (Administrative Record No. OK-999.01) that OSM sent to Oklahoma in accordance with 30 CFR 732.17(c), with additional changes submitted on its own initiative. Below is a summary of Oklahoma's proposed changes. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at www.regulations.gov.

Oklahoma proposes to make changes to Title 460. Department of Mines: Chapter 20, The Permanent Regulations Governing the Coal Reclamation Act of 1979, in the following subchapters.

1. Subchapter 3. Permanent Regulatory Program

Oklahoma proposes to add new definitions at 460:20-3-5. for Applicant/Violator System (AVS); Control or controller; Own, owner, or ownership; Violation; Violation, failure or refusal; and Willful or willfully. Oklahoma proposes this change to closely follow the Federal regulation at 30 CFR 701.5.

2. Subchapter 15. Requirements for Permits and Permit Processing

Oklahoma proposes to revoke sections 460:20-15-2. Definitions; 460:20-15-6. Review of permit applications; 460:20-15-9. Improvidently issued permits: General procedures; 460:20-15-10. Improvidently issued permits: Rescission procedures; 460:20-15-13. Procedures for challenging ownership or control links shown in AVS; and 460:20-15-14. Standards for challenging ownership or control links and the status of violations.

Oklahoma proposes to add new sections 460:20-15-6.1. Review of permit applications; 460:20-15-6.2. General provisions for review of permit application information and entry of information into AVS; 460:20-15-6.3. Review of applicant, operator, and ownership and control information; 460:20-15-6.4. Review of permit history; 460:20-15-6.5. Review of compliance history; 460:20-15-6.6. Permit eligibility determination; 460:20-15-6.7. Unanticipated events or conditions at remining sites; 460:20-15-6.8. Eligibility for provisionally issued permits; 460:20-15-6.9. Written findings for permit application approval; 460:20-15-6.10. Performance bond submittal; 460:20-15-9.1. Initial review and finding requirements for improvidently issued permits; 460:20-15-9.2. Notice requirements for improvidently issued permits; 460:20-15-10.1. Suspension or rescission requirements for improvidently issued permits; 460:20-15-10.2. Who may challenge ownership or control listings and findings; 460:20-15-13.1. How to challenge an owner and controller listing or finding; 460:20-15-14.1. Burden of proof for ownership or control challenges; and 460:20-15-14.2. Written agency

decision on challenges to ownership or control listings or findings. Oklahoma proposes these changes to closely follow the Federal regulations at 30 CFR 773.7 - 773.16 and 30 CFR 773.21 - 773.28.

3. Subchapter 17. Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights

Oklahoma proposes to revoke section 460:20-17-1. Scope and purpose; and replace it with new section 460:20-17-1.1. Scope and purpose. Oklahoma proposes this change to closely follow the Federal regulation at 30 CFR 774.1.

Oklahoma proposes to add new sections 460:20-17-2.1. Post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information; and 460:20-17-2.2. Post-permit issuance information requirements for permittees. Oklahoma proposes these changes to closely follow the Federal regulations at 30 CFR 774.11 and 774.12.

Oklahoma proposes to add language in paragraph (a) of section 460:20-17-5. Transfer, assignment, or sale of permit rights. Oklahoma proposes this change to closely follow the Federal regulation at 30 CFR 774.17(a).

4. Subchapter 23. Permit Applications: Minimum Requirements for Legal,

Financial, Compliance, and Related Information

Oklahoma proposes to revoke sections 460:20-23-2. Identification of interests; and 460:20-23-3. Violation information.

Oklahoma proposes to add new sections 460:20-23-2.1. Certifying and updating existing permit application information; 460:20-23-2.2. Providing applicant and operator information; 460:20-23-2.3. Providing permit history information; 460:20-23-2.4. Providing property interest information; 460:20-23-3.1. Providing violation information; and 460:20-23-10. Facilities or structures used in common.

Oklahoma proposes these changes to closely follow the Federal regulations at 30 CFR 778.9 - 778.14 and 30 CFR 778.22.

5. Subchapter 43. Permanent Program Performance Standards: Surface Mining Standards

Oklahoma proposes to revoke a portion of paragraph (b)(2) in section 460:20-43-12. Hydrologic balance: siltation structures, which is identical to the Federal regulation at 30 CFR 816.46(b)(2), and replace it with new language regarding surface drainage control, siltation structures, and alternative techniques.

6. Subchapter 59. State Enforcement.

Oklahoma proposes to revoke the definition of Willful Violation from section 460:20-59-2. Definitions. Oklahoma proposes this change to closely follow the Federal regulation at 30 CFR 843.5.

Oklahoma proposes to revise paragraph (f) and add new paragraph (g) in section 460:20-59-3. Cessation orders. Oklahoma proposes this change to closely follow paragraphs (f) and (g) of the Federal regulation at 30 CFR 843.11.

7. Subchapter 63. Individual Civil Penalties

Oklahoma proposes to revoke section 460:20-63-2. Definitions. Oklahoma proposes this change to more closely follow the Federal regulation at 30 CFR Part 846 individual civil penalties.

8. Subchapter 64. Alternative Enforcement

Oklahoma proposes to add new subchapter 64 and add new sections 460:20-64-1. Scope; 460:20-64-2. General provisions; 460:20-64-3. Criminal penalties; and 460:20-64-4. Civil actions for relief. Oklahoma proposes these changes to closely follow the Federal regulations at 30 CFR 847.1 - 847.16.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled

to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866 - Regulatory Planning and Review

This rulemaking is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the Federal Register indicating receipt of

the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

William L. Joseph, Acting Regional Director,
Mid-Continent Region.

Dated: July 3, 2013.

[4310-05-P]

[FR Doc. 2013-26587 Filed 11/05/2013 at 8:45 am; Publication Date: 11/06/2013]